

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MYRON GAYLORD BRANDON,
Petitioner,
v.
STATE OF WASHINGTON,
Respondent.

Case No. C04-5617KLS

ORDER

This habeas corpus matter is before the court on consent. Before the court are two motions filed by petitioner. The first is a request to extend time to file a reply. (Dkt. # 27). The second motion is a second attempt to have the court consider the issue of petitioner's state personal restraint petition being time barred as a motion separate from the petition on the merits. (Dkt. # 44).

Currently petitioner has until June 3rd to show cause why this action should be stayed. The court will grant until **July 29th, 2005** to file a traverse. The motion for an extension of time is

GRANTED.

The motion relating to petitioner's state court personal restraint petition being time barred is **DENIED**. Petitioner argues he meets the federal mail box rule, and his petition was mailed one day before the time expired. Washington state does not follow the mail box rule. *In Re Carlstad*, 150

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1 Wn. 2d 583 (2003). Further, this is an issue that should be considered when the petition is
2 considered on the merits as noted in the court's prior ruling on this issue. (Dkt. # 43). Petitioner has
3 failed to show the courts prior ruling on this issue, (Dkt. # 43), was improper.

4 The clerk is directed to send copies of this order to petitioner and counsel for respondent.
5 And to remove entries 27 and 44 from the court's calendar.

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7 DATED this 27th day of May, 2005.

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13 Karen L. Strombom
14 United States Magistrate Judge

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